

1 AN ACT relating to children.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 158.150 is amended to read as follows:

- 4 (1) All students admitted to the common schools shall comply with the lawful  
5 regulations for the government of the schools:
- 6 (a) Willful disobedience or defiance of the authority of the teachers or  
7 administrators, use of profanity or vulgarity, assault or battery or abuse of  
8 other students, the threat of force or violence, the use or possession of alcohol  
9 or drugs, stealing or destruction or defacing of school property or personal  
10 property of students, the carrying or use of weapons or dangerous instruments,  
11 or other incorrigible bad conduct on school property, as well as off school  
12 property at school-sponsored activities, constitutes cause for suspension or  
13 expulsion from school; and
- 14 (b) Assault or battery or abuse of school personnel; stealing or willfully or  
15 wantonly defacing, destroying, or damaging the personal property of school  
16 personnel on school property, off school property, or at school-sponsored  
17 activities constitutes cause for suspension or expulsion from school.
- 18 (2) (a) Each local board of education shall adopt a policy requiring the expulsion  
19 from school for a period of at least twelve (12) months for a student who:
- 20 1. Is determined by the board through clear and convincing evidence to  
21 have made threats that pose a danger to the well-being of students,  
22 faculty, or staff of the district;~~or~~
- 23 2. Is determined by the board to have brought a weapon to a school under  
24 its jurisdiction. In determining whether a student has brought a weapon  
25 to school, a local board of education shall use the definition of "unlawful  
26 possession of a weapon on school property" ***described***~~stated~~ in KRS  
27 ***527.070; or***

1            **3. Is in grades six (6) through twelve (12), and is determined by the**  
 2            **board to have intentionally caused serious physical injury as defined**  
 3            **in Section 4 of this Act to school personnel on school property or at a**  
 4            **school function under the board's jurisdiction. For purposes of this**  
 5            **subsection, school personnel does not include a student who is**  
 6            **employed by a school or enrolled in any school-based apprenticeship**  
 7            **program.**

8            (b) The board shall also adopt a policy requiring disciplinary actions, up to and  
 9            including expulsion from school, for a student who is determined by the board  
 10           to have:

- 11           1. Possessed prescription drugs or controlled substances for the purpose of  
 12           sale or distribution at a school under the board's jurisdiction;
- 13           2. Physically assaulted or battered or abused **school**~~educational~~ personnel  
 14           or other students **on school property or** at a ~~school or~~ school function  
 15           under the board's jurisdiction, **except as provided in paragraph (a)3. of**  
 16           **this subsection;** or
- 17           3. Physically assaulted, battered, or abused **school**~~educational~~ personnel  
 18           or other students off school property and the incident is likely to  
 19           substantially disrupt the educational process.

20           (3) (a) The board may modify the expulsion requirement and length for students on a  
 21           case-by-case basis, except the length of expulsion shall be at least twelve (12)  
 22           months for a violation set forth in subsection (2)(a) of this section.

23           (b) ~~Nothing in~~ This section shall **not** prohibit a board from expelling a student  
 24           for longer than twelve (12) months.

25           (c) A board that has expelled a student from the student's regular school setting  
 26           shall provide or ensure that educational services are provided to the student in  
 27           an appropriate alternative program or setting, unless the board has made a

1 determination, on the record, supported by clear and convincing evidence, that  
2 the expelled student posed a threat to the safety of other students or school  
3 staff and could not be placed into a state-funded agency program. Behavior  
4 which constitutes a threat shall include but not be limited to the physical  
5 assault, battery, or abuse of others; the threat of physical force; being under  
6 the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs  
7 or alcohol; the carrying, possessing, or transfer of weapons or dangerous  
8 instruments; and any other behavior which may endanger the safety of others.  
9 Other intervention services as indicated for each student may be provided by  
10 the board or by agreement with the appropriate state or community agency. A  
11 state agency that provides the service shall be responsible for the cost.

- 12 (d) 1. In lieu of expelling a student, or upon the expiration of a student's  
13 expulsion, a superintendent may place a student into an alternative  
14 program or setting if the superintendent determines placement of the  
15 student in his or her regular school setting is likely to substantially  
16 disrupt the education process or constitutes a threat to the safety of other  
17 students or school staff. The action shall not be taken until the parent,  
18 guardian, or other person having legal custody or control of the student  
19 has had an opportunity to have a hearing before the board or an appeals  
20 committee as described in subparagraph 2. of this paragraph.
- 21 2. The board may adopt a policy to establish an appeals committee and  
22 delegate the authority to hear appeals made under this paragraph to that  
23 committee.
- 24 3. The alternative program or setting may be provided virtually.
- 25 4. Notwithstanding any other statute or administrative regulation to the  
26 contrary, students placed in an alternative program or setting under this  
27 paragraph shall be counted in attendance and membership for state

1 funding purposes in the same manner as other students participating in  
2 alternative programs of the district.

3 5. Students placed in an alternative program or setting under this paragraph  
4 shall be subject to compulsory attendance requirements under KRS  
5 Chapter 159 and applicable local board policy.

6 6. Following the initial alternative placement of a student under this  
7 paragraph, the board shall review the alternative program or setting  
8 placement at least once per year and determine if the placement should  
9 be continued in accordance with subparagraph 1. of this paragraph.

10 (4) For purposes of this subsection, "charges" means substantiated behavior that falls  
11 within the grounds for suspension or expulsion enumerated in subsection (1) of this  
12 section, including behavior committed by a student while enrolled in a private or  
13 public school, or in a school within another state. A school board may adopt a  
14 policy providing that, if a student is suspended or expelled for any reason or faces  
15 charges that may lead to suspension or expulsion but withdraws prior to a hearing  
16 from any public or private school in this or any other state, the receiving district  
17 may review the details of the charges, suspension, or expulsion and determine if the  
18 student will be admitted, and if so, what conditions may be imposed upon the  
19 admission, which may include placement of the student into an alternative program  
20 or setting as described in subsection (3)(d) of this section.

21 (5) (a) School administrators, teachers, or other school personnel may immediately  
22 remove or cause to be removed threatening or violent students from a  
23 classroom setting or from the district transportation system pending any  
24 further disciplinary action that may occur. Each board of education shall adopt  
25 a policy to assure the implementation of this section and to assure the safety  
26 of the students and staff.

27 (b) Except as described in subsection (10) of this section:

- 1           1.    A principal may establish procedures for a student's removal from and  
2                    reentry to the classroom when the student's behavior disrupts the  
3                    classroom environment and education process or the student challenges  
4                    the authority of a supervising adult. In addition to removal, the student  
5                    shall be subject to further discipline for the behavior consistent with the  
6                    school's code of conduct;[ ]
- 7           2.    A student who is removed from the same classroom three (3) times  
8                    within a thirty (30) day period shall be considered chronically disruptive  
9                    and may be suspended from school in accordance with this section, and  
10                   no other basis for suspension shall be deemed necessary;[ ]
- 11          3.    At any time during the school year, for a student who has been removed  
12                    from the classroom under this paragraph, a principal may require a  
13                    review of the classroom issues with the teacher and the parent, guardian,  
14                    or other person having legal custody or control of the student and  
15                    determine a course of action for the teacher and student regarding the  
16                    student's continued placement in the classroom;[ ]
- 17          4.    At any time during the school year, a principal may permanently remove  
18                    a student from a classroom for the remainder of the school year if the  
19                    principal determines the student's continued placement in the classroom  
20                    will chronically disrupt the education process for other students;[ ]
- 21          5.    When a student is removed from a classroom under this paragraph  
22                    temporarily or permanently, the principal shall determine the placement  
23                    of the student in lieu of that classroom, which may include but is not  
24                    limited to:
  - 25                    a.    Another classroom in that school; or
  - 26                    b.    An alternative program or setting, which may be provided  
27                            virtually, as approved by the superintendent;[ ]

1           6. Any permanent action by a principal under this paragraph shall be  
2           subject to an appeal process in accordance with a policy adopted by the  
3           board; ~~and~~;

4           7. Policies compliant with this paragraph shall be included in the code of  
5           behavior and discipline adopted by the board of education under KRS  
6           158.148 and the policies adopted by the school council under KRS  
7           160.345.

8 (6) A student shall not be suspended from the common schools until after at least the  
9           following due process procedures have been provided:

10          (a) The student has been given oral or written notice of the charge or charges  
11           against him or her which constitute cause for suspension;

12          (b) The student has been given an explanation of the evidence of the charge or  
13           charges if the student denies them; and

14          (c) The student has been given an opportunity to present his or her own version of  
15           the facts relating to the charge or charges.

16           These due process procedures shall precede any suspension from the common  
17           schools unless immediate suspension is essential to protect persons or property or to  
18           avoid disruption of the ongoing academic process. In such cases, the due process  
19           procedures outlined above shall follow the suspension as soon as practicable, but no  
20           later than three (3) school days after the suspension.

21 (7) (a) The superintendent, principal, assistant principal, or head teacher of any  
22           school may suspend a student but shall report the action in writing  
23           immediately to the superintendent and to the parent, guardian, or other person  
24           having legal custody or control of the student.

25          (b) 1. The board of education of any school district may expel or extend the  
26           expulsion of any student for misconduct as described in subsection (1)  
27           of this section, but the action shall not be taken until the parent,

1 guardian, or other person having legal custody or control of the student  
 2 has had an opportunity to have a hearing before the board. The decision  
 3 of the board shall be final.

4 2. Within thirty (30) days prior to the end of a student's expulsion, the  
 5 board shall review the details of the expulsion and current factors and  
 6 circumstances, including if ending the expulsion will substantially  
 7 disrupt the education process or constitute a threat to the safety of  
 8 students or school staff, to determine if the expulsion shall be extended  
 9 for a period not to exceed twelve (12) months.

10 3. The expulsion review process shall be used prior to the end of each  
 11 expulsion period until the board ends the expulsion or the student is no  
 12 longer subject to compulsory attendance under KRS 159.010.

13 4. Each board of education shall adopt a policy for implementation of the  
 14 process described in this paragraph.

15 (8) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be  
 16 considered a change of educational placement if:

17 1. The child is removed for more than ten (10) consecutive days during a  
 18 school year; or

19 2. The child is subjected to a series of removals that constitute a pattern  
 20 because the removals accumulate to more than ten (10) school days  
 21 during a school year and because of other factors, such as the length of  
 22 each removal, the total amount of time the child is removed, and the  
 23 proximity of removals to one another.

24 (b) The admissions and release committee shall meet to review the placement and  
 25 make a recommendation for continued placement or a change in placement  
 26 and determine whether regular suspension or expulsion procedures apply.  
 27 Additional evaluations shall be completed, if necessary.

1 (c) If the admissions and release committee determines that an exceptional child's  
 2 behavior is related to his or her disability, the child shall not be suspended any  
 3 further or expelled unless the current placement could result in injury to the  
 4 child, other children, or the educational personnel, in which case an  
 5 appropriate alternative placement shall be provided that will provide for the  
 6 child's educational needs and will provide a safe learning and teaching  
 7 environment for all. If the admissions and release committee determines that  
 8 the behavior is not related to the disability, the local educational agency may  
 9 pursue its regular suspension or expulsion procedure for the child, if the  
 10 behavior so warrants. However, educational services shall not be terminated  
 11 during a period of expulsion and during a suspension after a student is  
 12 suspended for more than a total of ten (10) days during a school year. A  
 13 district may seek temporary injunctive relief through the courts if the parent  
 14 and the other members of the admissions and release committee cannot agree  
 15 upon a placement and the current placement will likely result in injury to the  
 16 student or others.

17 (9) Suspension of primary school students shall be considered only in exceptional cases  
 18 where there are safety issues for the child or others.

19 (10) Any action under this section related to students with disabilities shall be in  
 20 compliance with applicable federal law.

21 (11) ~~Nothing in~~ This section shall ***not*** be interpreted or construed to preclude the  
 22 requirements contained in KRS 158.305 or 158.4416.

23 ➔Section 2. KRS 158.155 is amended to read as follows:

24 (1) Any school employee who knows or has reasonable cause to believe that a person  
 25 has made threats or plans of violence which are intended to target a school or  
 26 students or who knows that a firearm is present on school property in violation of  
 27 KRS 527.070 shall immediately cause a report to be made pursuant to subsection

1 ~~(11)~~~~(10)~~ of this section.

2 (2) Any school employee shall immediately report pursuant to subsection ~~(11)~~~~(10)~~ of  
3 this section any act which the employee has a reasonable cause to believe has  
4 occurred on school property or at a school-sponsored or sanctioned event involving:

5 (a) **Assault of any school employee by a student in grades six (6) through twelve**  
6 **(12)**;

7 (b) Assault resulting in serious physical injury;

8 ~~(c)~~~~(b)~~ A sexual offense;

9 ~~(d)~~~~(c)~~ Kidnapping;

10 ~~(e)~~~~(d)~~ Assault with the use of a weapon;

11 ~~(f)~~~~(e)~~ Possession of a firearm or deadly weapon in violation of the law;

12 ~~(g)~~~~(f)~~ The use, possession, or sale of a controlled substance in violation of the  
13 law; or

14 ~~(h)~~~~(g)~~ Damage to property.

15 (3) Any school employee who receives information from a student or other person of  
16 conduct which is required to be reported under subsection (1) or (2) of this section  
17 shall report the conduct pursuant to subsection ~~(11)~~~~(10)~~ of this section.

18 (4) **Any school employee shall immediately report to the local board of education any**  
19 **act which the employee has a reasonable cause to believe has occurred on school**  
20 **property or at a school-sponsored or sanctioned event involving assault or**  
21 **attempted assault of any school employee by a student in grades kindergarten**  
22 **through five (5).**

23 **(5)** If a student has been adjudicated guilty of an offense specified in this subsection or  
24 has been expelled from school for an offense specified in this subsection, prior to a  
25 student's admission to any school, the parent, guardian, principal, or other person or  
26 agency responsible for a student shall provide to the school a sworn statement or  
27 affirmation indicating on a form provided by the Kentucky Board of Education that

1 the student has been adjudicated guilty or expelled from school attendance at a  
 2 public or private school in this state or another state for homicide, assault, or an  
 3 offense in violation of state law or school regulations relating to weapons, alcohol,  
 4 or drugs. The sworn statement or affirmation shall be sent to the receiving school  
 5 within five (5) working days of the time when the student requests enrollment in the  
 6 new school.

7 ~~(6)~~~~(5)~~ If any student who has been expelled from attendance at a public or private  
 8 school in this state for homicide, assault, or an offense in violation of state law or  
 9 school regulations relating to weapons, alcohol, or drugs requests transfer of his or  
 10 her records, those records shall reflect the charges and final disposition of the  
 11 expulsion proceedings.

12 ~~(7)~~~~(6)~~ If any student who is subject to an expulsion proceeding at a public or private  
 13 school in this state for homicide, assault, or an offense in violation of state law or  
 14 school regulations relating to weapons, alcohol, or drugs requests transfer of his or  
 15 her records to a new school, the records shall not be transferred until that  
 16 proceeding has been terminated and shall reflect the charges and any final  
 17 disposition of the expulsion proceedings.

18 ~~(8)~~~~(7)~~ ~~[Neither]~~ The husband-wife privilege of KRE 504 or~~[nor]~~ any professional-  
 19 client privilege, including those set forth in KRE 506 and 507, shall not be a ground  
 20 for refusing to make a report required under this section or for excluding evidence  
 21 in a judicial proceeding of the making of a report and of the conduct giving rise to  
 22 the making of a report. However, the attorney-client privilege of KRE 503 and the  
 23 religious privilege of KRE 505 are grounds for refusing to make a report or for  
 24 excluding evidence as to the report and the underlying conduct.

25 ~~(9)~~~~(8)~~ ~~[Nothing in]~~ This section shall not be construed as to require self-  
 26 incrimination.

27 ~~(10)~~~~(9)~~ A person acting upon reasonable cause in the making of a report under this

1 section in good faith shall be immune from any civil or criminal liability that might  
 2 otherwise be incurred or imposed from:

- 3 (a) Making the report; and
- 4 (b) Participating in any judicial proceeding that resulted from the report.

5 ~~(11)~~<sup>(10)</sup> Notice required pursuant to this section shall be given to any law enforcement  
 6 agency created by the local board of education, and to:

- 7 (a) A local law enforcement agency not created by the local board of education;
- 8 or
- 9 (b) The Department of Kentucky State Police~~].~~

10 ~~(11) Any person who intentionally violates the provisions of this section shall be~~  
 11 ~~guilty of a:~~

- 12 ~~(a) Class B misdemeanor for the first offense;~~
- 13 ~~(b) Class A misdemeanor for the second offense; and~~
- 14 ~~(c) Class D felony for the third or subsequent offense].~~

15 ➔Section 3. KRS 158.990 is amended to read as follows:

16 (1) Any member of a school board who votes to permit entrance to a school of any  
 17 child not eligible therefor under the provisions of KRS 158.030 shall be fined not  
 18 less than five dollars (\$5) nor more than fifty dollars (\$50).

19 (2) Any person **who intentionally violates Section 2 of this Act shall be guilty of a:**

- 20 **(a) Class B misdemeanor for the first offense; and**
- 21 **(b) Class A misdemeanor for the second or subsequent offense**~~[required to~~  
 22 ~~report under KRS 158.155 who fails to report promptly or who refuses to~~  
 23 ~~make a report is guilty of a Class A misdemeanor].~~

24 ➔Section 4. KRS 500.080 is amended to read as follows:

25 As used in the Kentucky Penal Code, unless the context otherwise requires:

26 (1) "Actor" means any natural person and, where relevant, a corporation or an  
 27 unincorporated association;

- 1 (2) "Crime" means a misdemeanor or a felony;
- 2 (3) "Dangerous instrument" means any instrument, including parts of the human body  
3 when a serious physical injury is a direct result of the use of that part of the human  
4 body, article, or substance which, under the circumstances in which it is used,  
5 attempted to be used, or threatened to be used, is readily capable of causing death or  
6 serious physical injury. "Dangerous instrument" may include a laser;
- 7 (4) "Deadly weapon" means any of the following:
- 8 (a) A weapon of mass destruction;
- 9 (b) Any weapon from which a shot, readily capable of producing death or other  
10 serious physical injury, may be discharged;
- 11 (c) Any knife other than an ordinary pocket knife or hunting knife;
- 12 (d) Billy, nightstick, or club;
- 13 (e) Blackjack or slapjack;
- 14 (f) Nunchaku karate sticks;
- 15 (g) Shuriken or death star; or
- 16 (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- 17 (5) "Felony" means an offense for which a sentence to a term of imprisonment of at  
18 least one (1) year in the custody of the Department of Corrections may be imposed;
- 19 (6) "Fentanyl derivative" has the same meaning as in KRS 218A.010;
- 20 (7) "Government" means the United States, any state, county, municipality, or other  
21 political unit, or any department, agency, or subdivision of any of the foregoing, or  
22 any corporation or other association carrying out the functions of government;
- 23 (8) "He" means any natural person and, where relevant, a corporation or an  
24 unincorporated association;
- 25 (9) "Impacted by the disaster" means the location or in reasonable proximity to the  
26 location where a natural or man-made disaster has caused physical injury, serious  
27 physical injury, death, or substantial damage to property or infrastructure;

- 1 (10) "Laser" means any device designed or used to amplify electromagnetic radiation by  
2 stimulated emission that emits a beam, other than a medical laser when used in  
3 medical treatment or surgery;
- 4 (11) "Law" includes statutes, ordinances, and properly adopted regulatory provisions.  
5 Unless the context otherwise clearly requires, "law" also includes the common law;
- 6 (12) "Minor" means any person who has not reached the age of majority as defined in  
7 KRS 2.015;
- 8 (13) "Misdemeanor" means an offense, other than a traffic infraction, for which a  
9 sentence to a term of imprisonment of not more than twelve (12) months can be  
10 imposed;
- 11 (14) "Natural or man-made disaster" means a tornado, storm, or other severe weather,  
12 earthquake, flood, or fire that poses a significant threat to human health and safety,  
13 property, or critical infrastructure;
- 14 (15) "Offense" means conduct for which a sentence to a term of imprisonment or to a  
15 fine is provided by any law of this state or by any law, local law, or ordinance of a  
16 political subdivision of this state or by any law, order, rule, or regulation of any  
17 governmental instrumentality authorized by law to adopt the same;
- 18 (16) "Person" means a human being, and where appropriate, a public or private  
19 corporation, an unincorporated association, a partnership, a government, or a  
20 governmental authority;
- 21 (17) "Physical injury" means substantial physical pain or any impairment of physical  
22 condition;
- 23 (18) "Possession" means to have actual physical possession or otherwise to exercise  
24 actual dominion or control over a tangible object;
- 25 (19) "Serious physical injury" means physical injury which creates a substantial risk of  
26 death, or which causes serious and prolonged disfigurement, prolonged impairment  
27 of health, prolonged loss or impairment of the function of any bodily organ, or eye

1 damage or visual impairment. For a child twelve (12) years of age or less at the  
 2 time of the injury, *a public or private elementary or secondary school or school*  
 3 *district classified or certified employee, school bus driver, or other school*  
 4 *employee injured in the course and scope of the employee's employment,* or ~~for~~  
 5 any person if the relationship between the perpetrator and the victim meets the  
 6 definition of a family member or member of an unmarried couple as defined in  
 7 KRS 403.720, or a dating relationship as defined in KRS 456.010, a serious  
 8 physical injury includes but is not limited to the following:

- 9 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the  
 10 kidneys;
- 11 (b) Any bruising severe enough to cause underlying muscle damage as  
 12 determined by elevated creatine kinase levels in the blood;
- 13 (c) Any bruising or soft tissue injury to the genitals that affects the ability to  
 14 urinate or defecate;
- 15 (d) Any testicular injury sufficient to put fertility at risk;
- 16 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 17 (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 18 (g) Any burn requiring hospitalization, debridement in the operating room, IV  
 19 fluids, intubation, or admission to a hospital's intensive care unit;
- 20 (h) Rib fracture;
- 21 (i) Scapula or sternum fractures;
- 22 (j) Any broken bone that requires surgery;
- 23 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain  
 24 injury;
- 25 (l) A concussion that results in the child becoming limp, unresponsive, or results  
 26 in seizure activity;
- 27 (m) Abdominal injuries that indicate internal organ damage regardless of whether

1 surgery is required;

2 (n) Any injury requiring surgery;

3 (o) Any injury that requires a blood transfusion; and

4 (p) Any injury requiring admission to a hospital's critical care unit;

5 (20) "Unlawful" means contrary to law or, where the context so requires, not permitted  
6 by law. It does not mean wrongful or immoral;

7 (21) "Violation" means an offense, other than a traffic infraction, for which a sentence to  
8 a fine only can be imposed; and

9 (22) "Weapon of mass destruction" means:

10 (a) Any destructive device as defined in KRS 237.030, but not fireworks as  
11 defined in KRS 227.700;

12 (b) Any weapon that is designed or intended to cause death or serious physical  
13 injury through the release, dissemination, or impact of toxic or poisonous  
14 chemicals or their precursors;

15 (c) Any weapon involving a disease organism; or

16 (d) Any weapon that is designed to release radiation or radioactivity at a level  
17 dangerous to human life.

18 ➔Section 5. KRS 610.200 is amended to read as follows:

19 (1) When a peace officer has taken or received a child into custody on a charge of  
20 committing an offense, the officer shall immediately inform the child of his ***or her***  
21 constitutional rights and afford him ***or her*** the protections required ***under the***  
22 ***Constitutions of the United States of America and the Commonwealth of***  
23 ***Kentucky***~~[thereunder]~~, notify the parent, or if the child is committed, the  
24 Department of Juvenile Justice or the cabinet, as appropriate, and if the parent is not  
25 available, then a relative, guardian, or person exercising custodial control or  
26 supervision of the child, that the child has been taken into custody, give an account  
27 of specific charges against the child, including the specific statute alleged to have

1           been violated, and the reasons for taking the child into custody.

- 2       (2)   (a)   When a peace officer has taken or received a child into protective custody on  
3           suspicion of being a runaway, the officer shall immediately notify:
- 4           1.   The child's parent, guardian, or person exercising custodial control or  
5           supervision of the child, if determined;
  - 6           2.   The cabinet or Department of Juvenile Justice, if appropriate; and
  - 7           3.   The court-designated worker.
- 8       (b)   If the parent, guardian, or other person exercising custodial control or  
9           supervision is identified and notified, the peace officer may retain custody of  
10          the child for a reasonable period to allow the person notified the opportunity  
11          to arrive at the officer's location and collect the child.
- 12       (c)   If the parent, guardian, or other person exercising custodial control or  
13           supervision cannot be identified or located, the peace officer may retain  
14          custody of the child for a period of time not to exceed two (2) hours to  
15          continue his or her investigation.
- 16       (d)   If, at the conclusion of the peace officer's investigation, the parent, guardian,  
17           or person exercising custodial control or supervision of the child is identified  
18          and notified, the peace officer shall return the child to the custody of that  
19          person and shall file a status offense case with the court-designated worker.
- 20       (e)   If, at the conclusion of the peace officer's investigation, the parent, guardian,  
21           or person exercising custodial control or supervision of the child cannot be  
22          identified or located, or that person refuses to collect the child, the peace  
23          officer shall file a complaint pursuant to KRS 610.012.
- 24       (3)   Unless the child is subject to trial as an adult, or unless the nature of the offense or  
25           other circumstances are such as to indicate the necessity of retaining the child in  
26          custody, the officer shall release the child to the custody of:
- 27        (a)   His or her parent;

- 1       **(b)** ~~[-or-]~~ If the child is committed, the Department of Juvenile Justice or the  
 2       cabinet, as appropriate; or
- 3       **(c)** If the parent is not available, then a relative, guardian, or person exercising  
 4       custodial control or supervision or other responsible person or agency  
 5       approved by the court upon the written promise, signed by such person or  
 6       agency, to bring the child to the court at a stated time or at such time as the  
 7       court may order. The written promise, accompanied by a written report by the  
 8       officer, shall be submitted ***immediately***~~[-forthwith-]~~ to the court or court-  
 9       designated worker and shall detail the reasons for having taken custody of the  
 10      child, the release of the child, the person to whom the child was released, and  
 11      the reasons for the release.
- 12      (4) (a) If the person fails to produce the child as agreed or upon notice from the court  
 13      as provided in subsection (3) of this section, a summons, warrant, or custody  
 14      order may be issued for the apprehension of the person or of the child, or  
 15      both.
- 16      (b) If the person notified to collect a suspected runaway pursuant to subsection  
 17      (2)(a) of this section fails or refuses to collect the child, the peace officer shall  
 18      notify the county attorney, who may file a charge of endangering the welfare  
 19      of a minor, and the cabinet.
- 20      (5) The release of a child pursuant to this section shall not preclude a peace officer  
 21      from proceeding with a complaint against a child or any other person.
- 22      (6) Unless the child is subject to trial as an adult, if the child is not released, the peace  
 23      officer shall contact the court-designated worker who may:
- 24      (a) Release the child to his ***or her*** parents;
- 25      (b) Release the child to such other persons or organizations as are authorized by  
 26      law;
- 27      (c) Release the child to either of the above subject to stated conditions; or

1 (d) Except as provided in subsection (7) of this section, authorize the peace  
 2 officer to retain custody of the child for an additional period not to exceed  
 3 twelve (12) hours during which the peace officer may transport the child to a  
 4 secure juvenile detention facility or a nonsecure facility. If the child is  
 5 retained in custody, the court-designated worker shall give notice to the  
 6 child's parents or person exercising custodial control or supervision of the fact  
 7 that the child is being retained in custody.

8 (7) (a) Except as provided in paragraph (b) of this subsection, ~~a~~ child ten (10)  
 9 years of age or under shall ***not*** be taken to or placed in a juvenile detention  
 10 facility.

11 (b) Any child ten (10) years of age or under who has been charged with the  
 12 commission of a capital offense or with an offense designated as a Class A or  
 13 Class B felony may be taken to or placed in a secure juvenile detention  
 14 facility or youth alternative center when there is no available less restrictive  
 15 alternative.

16 **(8) Subsections (3) and (6) of this section shall not require a peace officer to take a**  
 17 **child into custody for a felony violation of KRS 508.025 due solely to the violation**  
 18 **being one that may subject the child to trial as an adult.**

19 ➔Section 6. KRS 635.020 is amended to read as follows:

20 (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a  
 21 child before the court has committed a felony other than those described in  
 22 subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall  
 23 initially proceed in accordance with the provisions of this chapter.

24 (2) If a child charged with a capital offense, Class A felony, ~~or~~ Class B felony, ***or***  
 25 ***felony violation of KRS 508.025*** had attained age fourteen (14) at the time of the  
 26 alleged commission of the offense, the court shall, upon motion of the county  
 27 attorney made prior to adjudication, and after the county attorney has consulted

1 with the Commonwealth's attorney, that the child be proceeded against as a  
2 youthful offender, proceed in accordance with the provisions of KRS 640.010.

3 (3) **Except as provided in subsection (2) of this section,** if a child charged with a Class  
4 C or Class D felony has on one (1) prior separate occasion been adjudicated a  
5 public offender for a felony offense and had attained the age of sixteen (16) at the  
6 time of the alleged commission of the offense, the court shall, upon motion of the  
7 county attorney made prior to adjudication, and after the county attorney has  
8 consulted with the Commonwealth's attorney, that the child be proceeded against as  
9 a youthful offender, proceed in accordance with the provisions of KRS 640.010.

10 (4) (a) If a child charged with a felony had attained the age of fourteen (14) years at  
11 the time of the commission of the alleged offense in which a firearm, whether  
12 functional or not, was used by the child in the commission of the offense, the  
13 court shall, upon motion of the county attorney made prior to adjudication,  
14 and after the county attorney has consulted with the Commonwealth's  
15 attorney, that the child be proceeded against as a youthful offender, proceed in  
16 accordance with KRS 640.010.

17 (b) 1. Any other provision of KRS Chapters 610 to 645 to the contrary  
18 notwithstanding, if a child charged with a Class A, B, or C felony had  
19 attained the age of fifteen (15) years at the time of the commission of the  
20 alleged offense in which a firearm, whether functional or not, was used  
21 by the child in the commission of the offense, the court shall, upon  
22 motion of the county attorney made prior to adjudication and after  
23 consultation with the Commonwealth's attorney, that the child be  
24 proceeded against as a youthful offender, proceed in accordance with  
25 subparagraph 2. of this paragraph.

26 2. The child shall be transferred to the Circuit Court for trial as an adult if,  
27 following a preliminary hearing, the District Court finds probable cause

- 1 to believe that:
- 2 a. The child committed a Class A, B, or C felony;
- 3 b. A firearm was used by the child in the commission of that felony;
- 4 and
- 5 c. The child was fifteen (15) years of age or older at the time of the
- 6 ***alleged*** commission of the ~~alleged~~ felony.
- 7 3. a. After consulting with the county attorney, the Commonwealth's
- 8 attorney may transfer the child back to District Court if the
- 9 Commonwealth's attorney determines that it is in the best interest
- 10 of the public and the child to do so.
- 11 b. After considering the factors in KRS 640.010(2)(c), the Circuit
- 12 Court may transfer the child back to District Court if the Circuit
- 13 Court finds that less than two (2) factors specified in KRS
- 14 640.010(2)(c) favor keeping the child in Circuit Court.
- 15 4. If convicted in the Circuit Court, ***the child*** ~~he or she~~ shall be subject to
- 16 the same penalties as an adult offender, except that until he or she
- 17 reaches the age of eighteen (18) years, he or she shall be confined in a
- 18 facility for juveniles or for youthful offenders, unless the provisions of
- 19 KRS 635.025 apply or unless he or she is released pursuant to expiration
- 20 of sentence or parole, and at age eighteen (18) he or she shall be
- 21 returned to the sentencing Circuit Court for proceedings consistent with
- 22 KRS 640.030(2).
- 23 5. If ***the child is*** convicted in the Circuit Court and ~~he or she~~ is returned
- 24 to the sentencing Circuit Court for proceedings consistent with KRS
- 25 640.030(2), he or she shall not be eligible for probation or conditional
- 26 discharge.
- 27 (5) If a child previously convicted as a youthful offender under the provisions of KRS

1 Chapter 640 is charged with a felony allegedly committed prior to his or her  
2 eighteenth birthday, the court shall, upon motion of the county attorney made prior  
3 to adjudication, and after the county attorney has consulted with the  
4 Commonwealth's attorney, that the child be proceeded against as a youthful  
5 offender, proceed in accordance with the provisions of KRS 640.010.

6 (6) A child who is charged as is provided in subsection (2) of this section and is also  
7 charged with a Class C or D felony, a misdemeanor, or a violation arising from the  
8 same course of conduct shall have all charges included in the same proceedings;  
9 and the court shall, upon motion of the county attorney made prior to adjudication,  
10 and after the county attorney has consulted with the Commonwealth's attorney, that  
11 the child be proceeded against as a youthful offender, proceed in accordance with  
12 the provisions of KRS 640.010.

13 (7) If a person who is eighteen (18) or older and before the court is charged with a  
14 felony that occurred prior to his or her eighteenth birthday, the court shall, upon  
15 motion of the county attorney made prior to adjudication, and after the county  
16 attorney has consulted with the Commonwealth's attorney, that the child be  
17 proceeded against as a youthful offender, proceed in accordance with the provisions  
18 of KRS 640.010.

19 (8) All offenses arising out of the same course of conduct shall be tried with the felony  
20 arising from that course of conduct, whether the charges are adjudicated under this  
21 chapter or under KRS Chapter 640 and transferred to Circuit Court.